

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:18cr109-MHT
)	(WO)
ANTONIO OSCAR TATUM)	

ORDER

Upon consideration of defendant Antonio Oscar Tatum's motion for compassionate release (Doc. 186), it is ORDERED that the motion is denied.

This is Tatum's third motion for compassionate release. The court denied the two prior requests, which were brought for reasons distinct from the current motion. See Order (Doc. 181); Order (Doc. 185). This time, he argues that he is entitled to compassionate release because a physician where he is housed told him he needs surgery, and he has been waiting for about four months for the regional office of the Bureau of Prisons to approve the surgery.

Section 3582(c) (1) (A) states, in relevant part:

"[T]he court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction; ...

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission."

18 U.S.C. § 3582(c)(1)(A). Tatum has failed to meet the statutory requirements for a sentence reduction.

First, Tatum has not shown (1) that he presented a formal request to his facility's warden for the Bureau of Prisons to file a motion for compassionate release on his behalf, based on his need for surgery; and (2) that (a) he "has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to

bring a motion on the defendant's behalf" or (b) 30 days have passed since the warden received his request. *Id.* Therefore, his motion must be denied.

Second, Tatum has not shown that "extraordinary and compelling reasons warrant" a sentence reduction. *Id.* Tatum claims that he has been waiting for about four months for a surgery to be approved. While the delay is certainly not ideal, Tatum has not said what type of surgery he needs or what condition the surgery is designed to treat. However, without those facts, the court cannot determine whether the delay presents a compelling reason for a sentence reduction, or, in other words, whether and how much the delay endangers his health. Therefore, his motion is denied.

DONE, this the 6th day of May, 2021.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE